



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2847/P2  
PJK:cjs:jm

stays rm is run

P2

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

(in 9-12)

pw f  
jm  
9/16

regenerate

consent required  
consent required

1 AN ACT ~~to renumber~~ 703.10 (5); ~~to renumber and amend~~ 703.09 (2) and  
2 703.093 (1); ~~to amend~~ 703.11 (5), 703.13 (6) (c) and 703.13 (8) (b); and ~~to create~~  
3 703.09 (2) (b), 703.093 (1) (b), 703.10 (5) (b) and 703.38 (11) of the statutes;  
4 relating to: the percentage of votes needed to amend condominium documents.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

5 SECTION 1. 703.09 (2) of the statutes is renumbered 703.09 (2) (a) and amended  
6 to read:

7 703.09 (2) (a) Except as provided in par. (b) and ss. 703.093, 703.13 (6) (c) and  
8 (d) and (8) (b), and 703.26, a condominium declaration may be amended with the  
9 written consent of at least two-thirds of the aggregate of the votes established under

sub. (1) (f) or a greater percentage if provided in the declaration. An amendment becomes effective when it is recorded in the same manner as the declaration. The document submitting the amendment for recording shall state that the required consents and approvals for the amendment were received. A unit owner's written consent is not effective unless it is approved in writing by the first mortgagee of the unit, or the holder of an equivalent security interest, if any. Approval from the first mortgage lender or equivalent security interest holder, or the person servicing the first mortgage loan or its equivalent on a unit, constitutes approval of the first mortgagee or equivalent security interest holder under this subsection paragraph.

SECTION 2. 703.09 (2) (b) of the statutes is created to read:

703.09 (2) (b) Notwithstanding par. (a), if legal title to units with 70 percent

or more of the aggregate of the votes established under sub. (1) (f) is held by a single person or by 2 or more persons acting jointly by formal agreement, 50 percent of the

total number of all owners of record in the condominium, without regard to the number of units owned, or the number of votes appurtenant to the units owned, may

disapprove a proposed amendment to the declaration.

\*\*\*\*NOTE: Is this what you intended? What do you mean by "all owners"? For example, if a single unit is owned by a husband and wife, is that two owners, as I believe I have drafted? If, however, the language were "50 percent of the total number of all unit owners," according to the definition of "unit owner" a husband and wife would be one unit owner. Is that what you want, instead?

\*\*\*\*NOTE: How would an amendment be disapproved? What procedure would be used? After a vote is taken, if a person objects to the outcome, would another vote have to be taken, or would the objecting person(s) simply point out that the votes against the amendment equal 50 percent (or more) of all owners (if the exact number of votes either way is actually made known)? Also, if votes are counted by unit, all owners of record may not have voted. Alternatively, you could turn the language around and provide that, if one person (or 2 or more acting jointly) controls 70 percent of the aggregate votes appurtenant to the units, at least 51 percent of all owners must consent to an amendment for it to pass.

SECTION 3. 703.093 (1) of the statutes is renumbered 703.093 (1) (a) and amended to read:

except as provided in par. (b)

- 1 703.093 (1) (a) As an alternative to s. 703.09 (2) (a), a condominium declaration  
2 may be amended under this section if at least two-thirds of the aggregate of the votes  
3 established under s. 703.09 (1) (f), or a greater percentage if provided in the  
4 declaration, consent to the amendment in writing and those consents are approved  
5 by the mortgagees or holders of equivalent security interests in the units. An  
6 amendment becomes effective when it is recorded in the same manner as the  
7 declaration.

8 SECTION 4. 703.093 (1) (b) of the statutes is created to read:

- 9 703.093 (1) (b) Notwithstanding par. (a), if legal title to units with 70 percent  
10 or more of the aggregate of the votes established under s. 703.09 (1) (f) is held by a  
11 single person or by 2 or more persons acting jointly by formal agreement, 50 percent  
12 of the total number of all owners of record in the condominium, without regard to the  
13 number of units owned, or the number of votes appurtenant to the units owned, may  
14 disapprove a proposed amendment to the declaration.

\*\*\*NOTE: See NOTES after s. 703.09 (2) (b) above.

\*\*\*NOTE: Under the procedure for obtaining votes under this section, a ballot is sent to, and must be signed by, each unit owner, so the procedure under this section may need to be amended in order to get the votes of "all owners of record."

- 15 SECTION 5. 703.10 (5) of the statutes is renumbered 703.10 (5) (a).

16 SECTION 6. 703.10 (5) (b) of the statutes is created to read:

- 17 703.10 (5) (b) Notwithstanding par. (a), if legal title to units with 70 percent  
18 or more of the aggregate of the votes established under s. 703.09 (1) (f) is held by a  
19 single person or by 2 or more persons acting jointly by formal agreement, 50 percent  
20 of the total number of all owners of record in the condominium, without regard to the  
21 number of units owned, or the number of votes appurtenant to the units owned, may  
22 disapprove a proposed amendment to the bylaws.

by any unit owner

\*\*\*\*NOTE: See NOTES after s. 703.09 (2) (b) above.

SECTION 7. 703.11 (5) of the statutes is amended to read:

703.11 (5) AMENDMENT. Except as provided in s. 703.265, amendment of a condominium plat by an addendum that is not included as part of an amendment to the declaration shall be accomplished in the same manner as an amendment to the declaration under s. 703.09 (2) (a).

or (b), whichever is applicable

\*\*\*\*NOTE: If the cross-reference is limited to s. 703.09 (2) (a), the disapproval of an amendment under this section by 50 percent of the owners does not apply. Do you want it to apply?

SECTION 8. 703.13 (6) (c) of the statutes is amended to read:

703.13 (6) (c) An amendment to a declaration shall identify the units involved and shall state that the boundaries between those units are being relocated by agreement of the unit owners thereof. The amendment shall contain words of conveyance between those unit owners, and when recorded shall also be indexed in the name of the grantor and grantee. If the adjoining unit owners have specified in their written application the reallocation between their units of the aggregate undivided interest in the common elements appertaining to those units, the amendment to the declaration shall reflect that reallocation. An amendment to a declaration under this paragraph shall be adopted, at the option of the adjoining unit owners, either under s. 703.09 (2) (a) or by the written consent of the owners of the adjoining units involved and the mortgagees of the adjoining units.

\*\*\*\*NOTE: If the cross-reference is limited to s. 703.09 (2) (a), the disapproval of an amendment under this section by 50 percent of the owners does not apply. Do you want it to apply?

SECTION 9. 703.13 (8) (b) of the statutes is amended to read:

703.13 (8) (b) If the unit owners of adjoining units that may be merged desire to merge the units, the unit owners, after 30 days' written notice to all other unit owners, shall prepare and execute appropriate instruments under this subsection.

in the manner provided

1 An amendment to the condominium instruments shall assign a new identifying  
2 number to the new unit created by the merger of the units and shall allocate to the  
3 new unit all of the undivided interest in the common elements and rights to use the  
4 limited common elements and the votes in the association formerly appertaining to  
5 the separate units. The amendment shall reflect an allocation to the new unit of the  
6 liability for common expenses and rights to common surpluses formerly  
7 appertaining to the separate units. An amendment to a declaration under this  
8 paragraph shall be adopted either <sup>in the manner provided</sup> under s. 703.09 (2) (a) or by the written consent  
9 of the owners of the units to be merged, the mortgagees of those units, if any, and the  
10 board of directors of the association.

\*\*\*NOTE: If the cross-reference is limited to s. 703.09 (2) (a), the disapproval of an amendment under this section by 50 percent of the owners does not apply. Do you want it to apply?

11 **SECTION 10.** 703.38 (11) of the statutes is created to read:  
12 703.38 (11) Sections 703.09 (2) (b), 703.093 (1) (b), <sup>and</sup> 703.10 (5) (b) do not  
13 apply to a condominium existing on the effective date of this subsection .... [LRB  
14 inserts date], if the existing declaration or bylaws provide otherwise.

\*\*\*NOTE: This applicability provision is similar to s. 703.38 (2) and (3). Is this what you want?

15 (END)

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2847/P2ins  
PJK:.....

INSERT 2-13

1 <sup>not</sup> a condominium declaration may be amended <sup>only</sup> with the written consent of a  
2 simple majority

(END OF INSERT 2-13)

INSERT 3-12

3 <sup>not</sup> a condominium declaration may be amended under this section <sup>only</sup> if a simple  
4 majority

(END OF INSERT 3-12)

INSERT 3-14

5 <sup>not</sup> by any unit owner, consents to the amendment in writing and those consents  
6 are approved by the <sup>mortgagees</sup> ~~mortgage holders~~ <sup>mortgagees</sup> or holders of equivalent <sup>security</sup> interests in the units  
7 owned by the consenting unit owners

(END OF INSERT 3-14)

INSERT 3-15

8 <sup>ff</sup> **SECTION 1.** 703.10 (5) of the statutes is renumbered 703.10 (5) (a) and amended  
9 to read:  
10 703.10 (5) (a) The Except as provided in par. (b), the bylaws may be amended  
11 by the affirmative vote of unit owners having 67% or more of the votes. Each  
12 particular set forth in sub. (2) shall be expressed in the bylaws as amended.

History: 1977 c. 407; 1987 a. 262; 1991 a. 295; 1995 a. 27; 1999 a. 82.

(END OF INSERT 3-15)

INSERT 3-20



only

Insert 3-20

1

not

the bylaws may be amended by the affirmative vote of a simple majority

(END OF INSERT 3-20)

## **Barman, Mike**

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**From:** LRB.Legal  
**Sent:** Monday, September 16, 2013 11:52 AM  
**To:** Kahler, Pam  
**Subject:** FW: Draft review: LRB -2847/P2 Topic: Blocking a vote on an amendment

Sounds like they want to go to \*/1".

MB

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**From:** Rep.Barca  
**Sent:** Monday, September 16, 2013 11:51 AM  
**To:** LRB.Legal  
**Subject:** RE: Draft review: LRB -2847/P2 Topic: Blocking a vote on an amendment

We'll request a introducible draft of this.

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504

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**From:** LRB.Legal  
**Sent:** Monday, September 16, 2013 11:32 AM  
**To:** Rep.Barca  
**Subject:** Draft review: LRB -2847/P2 Topic: Blocking a vote on an amendment

**Following is the PDF version of draft LRB -2847/P2.**





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2847/PJ  
PJK:cjs:jm

Stays in minimum

2013 Bill

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

in 9-16  
SOON

GA

Gen Cat

1 AN ACT *to renumber and amend* 703.09 (2), 703.093 (1) and 703.10 (5); *to*  
2 *amend* 703.11 (5), 703.13 (6) (c) and 703.13 (8) (b); and *to create* 703.09 (2) (b),  
3 703.093 (1) (b), 703.10 (5) (b) and 703.38 (11) of the statutes; **relating to:** the  
4 consent required to amend condominium documents.

*Analysis by the Legislative Reference Bureau*

(This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.)

Insert A

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

5 SECTION 1. 703.09 (2) of the statutes is renumbered 703.09 (2) (a) and amended  
6 to read:  
7 703.09 (2) (a) Except as provided in par. (b), sub. (4), and ss. 703.093, 703.13  
8 (6) (c) and (d) and (8) (b), and 703.26, a condominium declaration may be amended  
9 with the written consent of at least two-thirds of the aggregate of the votes

1 established under sub. (1) (f) or a greater percentage if provided in the declaration.  
2 An amendment becomes effective when it is recorded in the same manner as the  
3 declaration. The document submitting the amendment for recording shall state that  
4 the required consents and approvals for the amendment were received. A unit  
5 owner's written consent is not effective unless it is approved in writing by the first  
6 mortgagee of the unit, or the holder of an equivalent security interest, if any.  
7 Approval from the first mortgage lender or equivalent security interest holder, or the  
8 person servicing the first mortgage loan or its equivalent on a unit, constitutes  
9 approval of the first mortgagee or equivalent security interest holder under this  
10 subsection.

11 **SECTION 2.** 703.09 (2) (b) of the statutes is created to read:

12 703.09 (2) (b) If legal title to units with 70 percent or more of the aggregate of  
13 the votes established under sub. (1) (f) is held by a single person or by 2 or more  
14 persons acting jointly by formal agreement, a condominium declaration may be  
15 amended only with the written consent of a simple majority of the unit owners,  
16 without regard to the number of units owned, or the number of votes appurtenant  
17 to the units owned, by any unit owner.

18 **SECTION 3.** 703.093 (1) of the statutes is renumbered 703.093 (1) (a) and  
19 amended to read:

20 703.093 (1) (a) As an alternative to s. 703.09 (2), except as provided in par. (b),  
21 a condominium declaration may be amended under this section if at least two-thirds  
22 of the aggregate of the votes established under s. 703.09 (1) (f), or a greater  
23 percentage if provided in the declaration, consent to the amendment in writing and  
24 those consents are approved by the mortgagees or holders of equivalent security

1 interests in the units. An amendment becomes effective when it is recorded in the  
2 same manner as the declaration.

3 **SECTION 4.** 703.093 (1) (b) of the statutes is created to read:

4 703.093 (1) (b) If legal title to units with 70 percent or more of the aggregate  
5 of the votes established under s. 703.09 (1) (f) is held by a single person or by 2 or more  
6 persons acting jointly by formal agreement, a condominium declaration may be  
7 amended under this section only if a simple majority of the unit owners, without  
8 regard to the number of units owned, or the number of votes appurtenant to the units  
9 owned, by any unit owner, consents to the amendment in writing and those consents  
10 are approved by the mortgagees or holders of equivalent security interests in the  
11 units owned by the consenting unit owners.

12 **SECTION 5.** 703.10 (5) of the statutes is renumbered 703.10 (5) (a) and amended  
13 to read:

14 703.10 (5) (a) ~~The Except as provided in par. (b), the~~ bylaws may be amended  
15 by the affirmative vote of unit owners having 67% or more of the votes. Each  
16 particular set forth in sub. (2) shall be expressed in the bylaws as amended.

17 **SECTION 6.** 703.10 (5) (b) of the statutes is created to read:

18 703.10 (5) (b) If legal title to units with 70 percent or more of the aggregate of  
19 the votes established under s. 703.09 (1) (f) is held by a single person or by 2 or more  
20 persons acting jointly by formal agreement, the bylaws may be amended only by the  
21 affirmative vote of a simple majority of the unit owners, without regard to the  
22 number of units owned, or the number of votes appurtenant to the units owned, by  
23 any unit owner.

24 **SECTION 7.** 703.11 (5) of the statutes is amended to read:

1           703.11 (5) AMENDMENT. Except as provided in s. 703.265, amendment of a  
2           condominium plat by an addendum that is not included as part of an amendment to  
3           the declaration shall be accomplished in the same manner as an amendment to the  
4           declaration under s. 703.09 (2) (a) or (b), whichever is applicable.

5           **SECTION 8.** 703.13 (6) (c) of the statutes is amended to read:

6           703.13 (6) (c) An amendment to a declaration shall identify the units involved  
7           and shall state that the boundaries between those units are being relocated by  
8           agreement of the unit owners thereof. The amendment shall contain words of  
9           conveyance between those unit owners, and when recorded shall also be indexed in  
10          the name of the grantor and grantee. If the adjoining unit owners have specified in  
11          their written application the reallocation between their units of the aggregate  
12          undivided interest in the common elements appertaining to those units, the  
13          amendment to the declaration shall reflect that reallocation. An amendment to a  
14          declaration under this paragraph shall be adopted, at the option of the adjoining unit  
15          owners, either in the manner provided under s. 703.09 (2) (a) or by the written  
16          consent of the owners of the adjoining units involved and the mortgagees of the  
17          adjoining units.

18          **SECTION 9.** 703.13 (8) (b) of the statutes is amended to read:

19          703.13 (8) (b) If the unit owners of adjoining units that may be merged desire  
20          to merge the units, the unit owners, after 30 days' written notice to all other unit  
21          owners, shall prepare and execute appropriate instruments under this subsection.  
22          An amendment to the condominium instruments shall assign a new identifying  
23          number to the new unit created by the merger of the units and shall allocate to the  
24          new unit all of the undivided interest in the common elements and rights to use the  
25          limited common elements and the votes in the association formerly appertaining to

1 the separate units. The amendment shall reflect an allocation to the new unit of the  
2 liability for common expenses and rights to common surpluses formerly  
3 appertaining to the separate units. An amendment to a declaration under this  
4 paragraph shall be adopted either in the manner provided under s. 703.09 (2) (a) or  
5 by the written consent of the owners of the units to be merged, the mortgagees of  
6 those units, if any, and the board of directors of the association.

7 **SECTION 10.** 703.38 (11) of the statutes is created to read:

8 703.38 (11) Sections 703.09 (2) (b), 703.093 (1) (b), 703.10 (5) (b), and 703.11 (5)  
9 do not apply to a condominium existing on the effective date of this subsection ....  
10 [LRB inserts date], if the existing declaration or bylaws provide otherwise.

11 (END)

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2847/lins  
PJK:.....

*r m is m*

**INSERT A**

Under current law, a condominium declaration must specify the number of votes that are appurtenant to each unit in the condominium for purposes of voting at meetings of the association of unit owners. Current law provides that a condominium declaration, as well as a condominium plat, may be amended with the written consent of at least two-thirds of the aggregate votes established in the declaration for all of the units, unless the declaration provides for a greater percentage, and that condominium bylaws may be amended by the affirmative vote of unit owners having 67 percent or more of the votes. ✓

This bill provides that, if legal title to units with 70 percent or more of the aggregate votes established in the declaration for all of the units is held by a single person or by two or more persons acting jointly by formal agreement, a condominium declaration, as well as a condominium plat, may be amended only with the written consent of a simple majority of the unit owners, without regard to the number of units owned by any unit owner or the number of votes appurtenant to the units owned by any unit owner. Likewise, condominium bylaws may be amended only by the affirmative vote of a simple majority of the unit owners, without regard to the number of units owned by any unit owner or the number of votes appurtenant to the units owned by any unit owner. As defined in current law, a "unit owner" is any person, combination of persons, partnership, or corporation that holds title to a unit. Thus, for example, a husband and wife who own a unit together would be one unit owner. ✓✓

(END OF INSERT A)

## Kahler, Pam

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**From:** Egerer, Matt  
**Sent:** Thursday, October 24, 2013 9:56 AM  
**To:** Kahler, Pam  
**Subject:** RE: 2847/1 Condominium Draft

Pam,

Can I request another small change? We'd like the to drop the 70% threshold we'd initially asked for down to 2/3 so that there wouldn't be a gap where a single developer could own 68% of units and the minority of other unit holders would still be powerless to block changes.

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504

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**From:** Kahler, Pam  
**Sent:** Thursday, August 01, 2013 1:02 PM  
**To:** Egerer, Matt  
**Subject:** RE: Condominium Draft

Matt,

Section 703.28 provides for removing the property's legal status as a condominium through a removal instrument. Is that you mean by terminating the agreement? Removing the property as a condominium requires *all* of the unit owners, so it would seem that the proposed provision is not needed for that.

Pam

---

**From:** Egerer, Matt  
**Sent:** Thursday, August 01, 2013 12:20 PM  
**To:** Kahler, Pam  
**Subject:** Condominium Draft

Pam,

This request is for you or whoever would be most appropriate.

Our office was contacted by a constituent that lives in a condominium which initially failed to sell the bulk of the units and went into receivership. A new developer later took over, but because the new developer owns the majority of units, it can outvote the rest of the association by voting its shares. As a result, agreements on the use of common spaces (common area taken over as a management office) and timely maintenance services (shoveling/lawn mowing responsibilities have not been kept up in a timely way) have been changed in ways that undermine our constituent's initial agreement. Now the new developer is renting the remaining units as apartments.

We would like to request a bill draft that would prevent a situation such as this.

I see that under 703.10(5), the law regarding amending bylaws says:

*"(5) AMENDMENT. The bylaws may be amended by the affirmative vote of unit owners having 67% or more of the votes. Each particular set forth in sub. (2) shall be expressed in the bylaws as amended."*

Also under 703.90(2) the Declaration can be amended by:

*"Except as provided in sub. (4) and ss. 703.093, 703.13 (6)(c) and (d) and (8) (b), and 703.26, a condominium declaration **may be amended with the written consent of at least two-thirds of the aggregate of the votes established under sub. (1) (f) or a greater percentage if provided in the declaration.** An amendment becomes effective when it is recorded in the same manner as the declaration. The document submitting the amendment for recording shall state that the required consents and approvals for the amendment were received. A unit owner's written consent is not effective unless it is approved in writing by the first mortgagee of the unit, or the holder of an equivalent security interest, if any.*

*Approval from the first mortgage lender or equivalent security interest holder, or the person servicing the first mortgage loan or its equivalent on a unit, constitutes approval of the first mortgagee or equivalent security interest holder under this subsection."*

So current law says just over 33% of unit owners can vote block a change to the declaration or bylaws. We would like to add provisions in these two areas so that:

When any ownership interest in units controlling 70% or more of the votes in the association is held by a single person or by multiple persons operating jointly by formal agreement, the amendment may be disapproved by 50% of the total number of all owners in the condominium, without regard to the number of units owned.

Also, this bill idea is based on a bill draft from Pennsylvania. That bill has to do with termination of a condominium agreement. When I was looking into this initially I did not see statutes involving the termination under our state law (but may have missed it). If this wouldn't already be covered by the draft's provisions on bylaws and the declaration, we would also like the above provision to apply to terminations as well.

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2847/f<sup>2</sup>

PJK:cjs:jf

stays r m is run

2013 BILL

(in 10-24)

Gen Cat

1 AN ACT *to renumber and amend* 703.09 (2), 703.093 (1) and 703.10 (5); *to*  
2 *amend* 703.11 (5), 703.13 (6) (c) and 703.13 (8) (b); and *to create* 703.09 (2) (b),  
3 703.093 (1) (b), 703.10 (5) (b) and 703.38 (11) of the statutes; **relating to:** the  
4 consent required to amend condominium documents.

***Analysis by the Legislative Reference Bureau***

Under current law, a condominium declaration must specify the number of votes that are appurtenant to each unit in the condominium for purposes of voting at meetings of the association of unit owners. Current law provides that a condominium declaration, as well as a condominium plat, may be amended with the written consent of at least two-thirds of the aggregate votes established in the declaration for all of the units, unless the declaration provides for a greater percentage, and that condominium bylaws may be amended by the affirmative vote of unit owners having 67 percent or more of the votes.

This bill provides that, if legal title to units with 70 percent or more of the aggregate votes established in the declaration for all of the units is held by a single person or by two or more persons acting jointly by formal agreement, a condominium declaration, as well as a condominium plat, may be amended only with the written consent of a simple majority of the unit owners, without regard to the number of units owned by any unit owner or the number of votes appurtenant to the units owned by any unit owner. Likewise, condominium bylaws may be amended only by the affirmative vote of a simple majority of the unit owners, without regard to the number of units owned by any unit owner or the number of votes appurtenant to the

two-thirds

**BILL**

units owned by any unit owner. As defined in current law, a "unit owner" is any person, combination of persons, partnership, or corporation that holds title to a unit. Thus, for example, a husband and wife who own a unit together would be one unit owner.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 703.09 (2) of the statutes is renumbered 703.09 (2) (a) and amended  
2 to read:

3           703.09 (2) (a) Except as provided in par. (b), sub. (4), and ss. 703.093, 703.13  
4 (6) (c) and (d) and (8) (b), and 703.26, a condominium declaration may be amended  
5 with the written consent of at least two-thirds of the aggregate of the votes  
6 established under sub. (1) (f) or a greater percentage if provided in the declaration.  
7 An amendment becomes effective when it is recorded in the same manner as the  
8 declaration. The document submitting the amendment for recording shall state that  
9 the required consents and approvals for the amendment were received. A unit  
10 owner's written consent is not effective unless it is approved in writing by the first  
11 mortgagee of the unit, or the holder of an equivalent security interest, if any.  
12 Approval from the first mortgage lender or equivalent security interest holder, or the  
13 person servicing the first mortgage loan or its equivalent on a unit, constitutes  
14 approval of the first mortgagee or equivalent security interest holder under this  
15 subsection.

16           **SECTION 2.** 703.09 (2) (b) of the statutes is created to read:

17           703.09 (2) (b) If legal title to units with ~~70 percent~~ <sup>two-thirds</sup> or more of the aggregate of  
18 the votes established under sub. (1) (f) is held by a single person or by 2 or more  
19 persons acting jointly by formal agreement, a condominium declaration may be  
20 amended only with the written consent of a simple majority of the unit owners,

**BILL**

without regard to the number of units owned, or the number of votes appurtenant to the units owned, by any unit owner.

**SECTION 3.** 703.093 (1) of the statutes is renumbered 703.093 (1) (a) and amended to read:

703.093 (1) (a) As an alternative to s. 703.09 (2), except as provided in par. (b), a condominium declaration may be amended under this section if at least two-thirds of the aggregate of the votes established under s. 703.09 (1) (f), or a greater percentage if provided in the declaration, consent to the amendment in writing and those consents are approved by the mortgagees or holders of equivalent security interests in the units. An amendment becomes effective when it is recorded in the same manner as the declaration.

**SECTION 4.** 703.093 (1) (b) of the statutes is created to read:

703.093 (1) (b) If legal title to units with 70 percent or more of the aggregate of the votes established under s. 703.09 (1) (f) is held by a single person or by 2 or more persons acting jointly by formal agreement, a condominium declaration may be amended under this section only if a simple majority of the unit owners, without regard to the number of units owned, or the number of votes appurtenant to the units owned, by any unit owner, consents to the amendment in writing and those consents are approved by the mortgagees or holders of equivalent security interests in the units owned by the consenting unit owners.

**SECTION 5.** 703.10 (5) of the statutes is renumbered 703.10 (5) (a) and amended to read:

703.10 (5) (a) The Except as provided in par. (b), the bylaws may be amended by the affirmative vote of unit owners having 67 percent or more of the votes. Each particular set forth in sub. (2) shall be expressed in the bylaws as amended.

67 percent

## BILL

*two-thirds*

1           **SECTION 6.** 703.10 (5) (b) of the statutes is created to read:

2           703.10 (5) (b) If legal title to units with 70 percent or more of the aggregate of  
3 the votes established under s. 703.09 (1) (f) is held by a single person or by 2 or more  
4 persons acting jointly by formal agreement, the bylaws may be amended only by the  
5 affirmative vote of a simple majority of the unit owners, without regard to the  
6 number of units owned, or the number of votes appurtenant to the units owned, by  
7 any unit owner.

8           **SECTION 7.** 703.11 (5) of the statutes is amended to read:

9           703.11 (5) **AMENDMENT.** Except as provided in s. 703.265, amendment of a  
10 condominium plat by an addendum that is not included as part of an amendment to  
11 the declaration shall be accomplished in the same manner as an amendment to the  
12 declaration under s. 703.09 (2) (a) or (b), whichever is applicable.

13           **SECTION 8.** 703.13 (6) (c) of the statutes is amended to read:

14           703.13 (6) (c) An amendment to a declaration shall identify the units involved  
15 and shall state that the boundaries between those units are being relocated by  
16 agreement of the unit owners thereof. The amendment shall contain words of  
17 conveyance between those unit owners, and when recorded shall also be indexed in  
18 the name of the grantor and grantee. If the adjoining unit owners have specified in  
19 their written application the reallocation between their units of the aggregate  
20 undivided interest in the common elements appertaining to those units, the  
21 amendment to the declaration shall reflect that reallocation. An amendment to a  
22 declaration under this paragraph shall be adopted, at the option of the adjoining unit  
23 owners, either in the manner provided under s. 703.09 (2) (a) or by the written  
24 consent of the owners of the adjoining units involved and the mortgagees of the  
25 adjoining units.

# BILL

**SECTION 9.** 703.13 (8) (b) of the statutes is amended to read:

703.13 (8) (b) If the unit owners of adjoining units that may be merged desire to merge the units, the unit owners, after 30 days' written notice to all other unit owners, shall prepare and execute appropriate instruments under this subsection. An amendment to the condominium instruments shall assign a new identifying number to the new unit created by the merger of the units and shall allocate to the new unit all of the undivided interest in the common elements and rights to use the limited common elements and the votes in the association formerly appertaining to the separate units. The amendment shall reflect an allocation to the new unit of the liability for common expenses and rights to common surpluses formerly appertaining to the separate units. An amendment to a declaration under this paragraph shall be adopted either in the manner provided under s. 703.09 (2) (a) or by the written consent of the owners of the units to be merged, the mortgagees of those units, if any, and the board of directors of the association.

**SECTION 10.** 703.38 (11) of the statutes is created to read:

703.38 (11) Sections 703.09 (2) (b), 703.093 (1) (b), 703.10 (5) (b), and 703.11 (5) do not apply to a condominium existing on the effective date of this subsection .... [LRB inserts date], if the existing declaration or bylaws provide otherwise.

**(END)**

## Kahler, Pam

---

**From:** Egerer, Matt  
**Sent:** Wednesday, February 19, 2014 3:22 PM  
**To:** Kahler, Pam  
**Subject:** RE: LRB 2847/2 Condo Amendments

Correct.

---

**From:** Kahler, Pam  
**Sent:** Wednesday, February 19, 2014 3:21 PM  
**To:** Egerer, Matt  
**Subject:** RE: LRB 2847/2 Condo Amendments

Is this correct: you only want a simple majority to be able to disapprove a proposed amendment, not be able to approve a proposed amendment?

---

**From:** Egerer, Matt  
**Sent:** Wednesday, February 19, 2014 1:09 PM  
**To:** Kahler, Pam  
**Subject:** LRB 2847/2 Condo Amendments

Pam,

We got feedback on LRB 2847/2 that it was unclear if the minority of unit owners (which under the bill can become a simple majority when the developer is counted as one) that could not only block an amendment, but the concern was raised if they could make a proactive change themselves to these documents.

Can we insert language that would clarify this mechanism we are trying to insert to allow a minority of independent unit owners to protect the property rights they initially agreed to does not allow this same minority to make their own changes to the documents?

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504  
fb.com/RepPeterBarca // @PeterWBarca

## **Kahler, Pam**

---

**From:** Egerer, Matt  
**Sent:** Wednesday, February 19, 2014 1:09 PM  
**To:** Kahler, Pam  
**Subject:** LRB 2847/2 Condo Amendments

Pam,

We got feedback on LRB 2847/2 that it was unclear if the minority of unit owners (which under the bill can become a simple majority when the developer is counted as one) that could not only block an amendment, but the concern was raised if they could make a proactive change themselves to these documents.

Can we insert language that would clarify this mechanism we are trying to insert to allow a minority of independent unit owners to protect the property rights they initially agreed to does not allow this same minority to make their own changes to the documents?

Matt Egerer  
Office of Representative Peter Barca  
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608.266.5504  
[fb.com/RepPeterBarca](https://www.facebook.com/RepPeterBarca) // [@PeterWBarca](https://twitter.com/PeterWBarca)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2847/6  
PJK:cjs:ms

stays

✓ m is run

2013 BILL

(in 2-24)

disapproval of amendments to

SA

1 AN ACT to renumber and amend 703.09 (2), 703.093 (1) and 703.10 (5); to  
2 amend 703.11 (5), 703.13 (6) (c) and 703.13 (8) (b); and to create 703.09 (2) (b),  
3 703.093 (1) (b), 703.10 (5) (b) and 703.38 (11) of the statutes; relating to: the  
4 consent required to amend condominium documents.

Analysis by the Legislative Reference Bureau

Under current law, a condominium declaration must specify the number of votes that are appurtenant to each unit in the condominium for purposes of voting at meetings of the association of unit owners. Current law provides that a condominium declaration, as well as a condominium plat, may be amended with the written consent of at least two-thirds of the aggregate votes established in the declaration for all of the units, unless the declaration provides for a greater percentage, and that condominium bylaws may be amended by the affirmative vote of unit owners having 67 percent or more of the votes.

This bill provides that, if legal title to units with two-thirds or more of the aggregate votes established in the declaration for all of the units is held by a single person or by two or more persons acting jointly by formal agreement, a condominium declaration, as well as a condominium plat, may be amended only with the written consent of a simple majority of the unit owners, without regard to the number of units owned by any unit owner or the number of votes appurtenant to the units owned by any unit owner. Likewise, condominium bylaws may be amended only by the affirmative vote of a simple majority of the unit owners, without regard to the number of units owned by any unit owner or the number of votes appurtenant to the

use 2x  
an amendment to

use 2x  
is disapproved if

, opposes the amendment in writing



**BILL**

*, opposes the amendment in writing*

units owned by any unit owner. As defined in current law, a "unit owner" is any person, combination of persons, partnership, or corporation that holds title to a unit. Thus, for example, a husband and wife who own a unit together would be one unit owner.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 703.09 (2) of the statutes is renumbered 703.09 (2) (a) and amended to read:

703.09 (2) (a) Except as provided in par. (b), sub. (4), and ss. 703.093, 703.13 (6) (c) and (d) and (8) (b), and 703.26, a condominium declaration may be amended with the written consent of at least two-thirds of the aggregate of the votes established under sub. (1) (f) or a greater percentage if provided in the declaration. An amendment becomes effective when it is recorded in the same manner as the declaration. The document submitting the amendment for recording shall state that the required consents and approvals for the amendment were received. A unit owner's written consent is not effective unless it is approved in writing by the first mortgagee of the unit, or the holder of an equivalent security interest, if any. Approval from the first mortgage lender or equivalent security interest holder, or the person servicing the first mortgage loan or its equivalent on a unit, constitutes approval of the first mortgagee or equivalent security interest holder under this subsection.

**SECTION 2.** 703.09 (2) (b) of the statutes is created to read:

703.09 (2) (b) If legal title to units with two-thirds or more of the aggregate of the votes established under sub. (1) (f) is held by a single person or by 2 or more persons acting jointly by formal agreement, a condominium declaration may be amended only with the written consent of a simple majority of the unit owners,

*disapproved by*

*opposition*

## BILL

without regard to the number of units owned, or the number of votes appurtenant to the units owned, by any unit owner. Insert 3-2

✓ 3 SECTION 3. 703.093 (1) of the statutes is renumbered 703.093 (1) (a) and  
4 amended to read:

5 703.093 (1) (a) As an alternative to s. 703.09 (2), except as provided in par. (b),  
6 a condominium declaration may be amended under this section if at least two-thirds  
7 of the aggregate of the votes established under s. 703.09 (1) (f), or a greater  
8 percentage if provided in the declaration, consent to the amendment in writing and  
9 those consents are approved by the mortgagees or holders of equivalent security  
10 interests in the units. An amendment becomes effective when it is recorded in the  
11 same manner as the declaration.

✓ 12 SECTION 4. 703.093 (1) (b) of the statutes is created to read:

13 703.093 (1) (b) If legal title to units with two-thirds or more of the aggregate  
14 of the votes established under s. 703.09 (1) (f) is held by a single person or by 2 or more  
15 persons acting jointly by formal agreement, a condominium declaration may be  
16 amended under this section only if a simple majority of the unit owners, without  
17 regard to the number of units owned, or the number of votes appurtenant to the units  
18 owned, by any unit owner, consents to the amendment in writing and those consents  
19 are approved by the mortgagees or holders of equivalent security interests in the  
20 units owned by the consenting unit owners. Insert 3-20

✓ 21 SECTION 5. 703.10 (5) of the statutes is renumbered 703.10 (5) (a) and amended  
22 to read:

23 703.10 (5) (a) The Except as provided in par. (b), the bylaws may be amended  
24 by the affirmative vote of unit owners having 67% 67 percent or more of the votes.  
25 Each particular set forth in sub. (2) shall be expressed in the bylaws as amended.

## BILL

✓ 1        **SECTION 6.** 703.10 (5) (b) of the statutes is created to read:

2        703.10 (5) (b) If legal title to units with two-thirds or more of the aggregate of  
3        the votes established under s. 703.09 (1) (f) is held by a single person or by 2 or more  
4        persons acting jointly by formal agreement, the bylaws may be amended only by the  
5        affirmative vote of a simple majority of the unit owners, without regard to the  
6        number of units owned, or the number of votes appurtenant to the units owned, by  
7        any unit owner. → insert 4-7

✓ 8        **SECTION 7.** 703.11 (5) of the statutes is amended to read:

9        703.11 (5) AMENDMENT. Except as provided in s. 703.265, amendment of a  
10        condominium plat by an addendum that is not included as part of an amendment to  
11        the declaration shall be accomplished in the same manner as an amendment to the  
12        declaration under s. 703.09 (2) (a) or (b), whichever is applicable. → insert 4-12

✓ 13        **SECTION 8.** 703.13 (6) (c) of the statutes is amended to read:

14        703.13 (6) (c) An amendment to a declaration shall identify the units involved  
15        and shall state that the boundaries between those units are being relocated by  
16        agreement of the unit owners thereof. The amendment shall contain words of  
17        conveyance between those unit owners, and when recorded shall also be indexed in  
18        the name of the grantor and grantee. If the adjoining unit owners have specified in  
19        their written application the reallocation between their units of the aggregate  
20        undivided interest in the common elements appertaining to those units, the  
21        amendment to the declaration shall reflect that reallocation. An amendment to a  
22        declaration under this paragraph shall be adopted, at the option of the adjoining unit  
23        owners, either in the manner provided under s. 703.09 (2) (a) or by the written  
24        consent of the owners of the adjoining units involved and the mortgagees of the  
25        adjoining units.

# BILL

✓1      **SECTION 9.** 703.13 (8) (b) of the statutes is amended to read:

703.13 (8) (b) If the unit owners of adjoining units that may be merged desire to merge the units, the unit owners, after 30 days' written notice to all other unit owners, shall prepare and execute appropriate instruments under this subsection. An amendment to the condominium instruments shall assign a new identifying number to the new unit created by the merger of the units and shall allocate to the new unit all of the undivided interest in the common elements and rights to use the limited common elements and the votes in the association formerly appertaining to the separate units. The amendment shall reflect an allocation to the new unit of the liability for common expenses and rights to common surpluses formerly appertaining to the separate units. An amendment to a declaration under this paragraph shall be adopted either in the manner provided under s. 703.09 (2) (a) or by the written consent of the owners of the units to be merged, the mortgagees of those units, if any, and the board of directors of the association.

✓ 15                    **SECTION 10.** 703.38 (11) of the statutes is created to read:

16           703.38 (11) Sections 703.09 (2) (b), 703.093 (1) (b), 703.10 (5) (b), and 703.11 (5)  
17       do not apply to a condominium existing on the effective date of this subsection ....  
18       [LRB inserts date], if the existing declaration or bylaws provide otherwise.

19 (END)

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2847/3ins  
PJK:cjs:rs

**INSERT 3-2**

1     *not* ✓ a proposed amendment to the declaration is disapproved if a simple majority  
2     of the unit owners, without regard to the number of units owned, or the number of  
3     votes appurtenant to the units owned, by any unit owner, opposes the proposed  
4     amendment in writing

(END OF INSERT 3-2)

**INSERT 3-20**

5     *not* ✓ a proposed amendment to the declaration is disapproved under this section if ✓  
6     a simple majority of the unit owners, without regard to the number of units owned,  
7     or the number of votes appurtenant to the units owned, by any unit owner, opposes  
8     the proposed amendment in writing

(END OF INSERT 3-20)

**INSERT 4-7**

9     *not* a proposed amendment to the bylaws is disapproved under this section if a  
10    simple majority of the unit owners, without regard to the number of units owned, or  
11    the number of votes appurtenant to the units owned, by any unit owner, opposes the  
12    proposed amendment in writing

(END OF INSERT 4-7)

**INSERT 4-12**

13    *not* ✓ (a), subject to s. 703.09 (2) (b) ✓

(END OF INSERT 4-12)

**Rose, Stefanie**

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**From:** Egerer, Matt  
**Sent:** Thursday, March 27, 2014 10:44 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2847/3 Topic: Blocking a vote on an amendment

Please Jacket LRB -2847/3 for the ASSEMBLY.